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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,734	06/27/2003	Yasushi Kobayashi	239613US3	5312
22850	7590	03/23/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.			NICOLAS, FREDERICK C	
1940 DUKE STREET			ART UNIT	
ALEXANDRIA, VA 22314			PAPER NUMBER	

3754

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No. 10/606,734	Applicant(s) KOBAYASHI, YASUSHI	
	Examiner Frederick C. Nicolas	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6,7,9,10 and 12 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-3,6,7,9,10 and 12 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☒ Claim(s) 1-3,6,7,9,10 and 12 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: the claimed limitation "which liquid dispenser" as recited in line 2, appears to be a double inclusion, at least in part, of the "a liquid dispenser" as recited in line 1. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3,6,7,9-10,12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giavasis 3,173,584 in view of Jenney 1,522,370.

Giavasis discloses a liquid dispenser for a cap (120, fig 2) which is fitted to a mouth (114) of a container (112) holding a liquid therein (col. 2, lines 21-25), the liquid dispenser comprises a liquid-lifting mechanism (134, fig 2) supported on an upper wall of the cap (120) as pierced therethrough and comprised of a helical screw (col. 3, lines 3-5) and a cylindrical tube (126, fig 2) encompassing the helical screw (col. 3, lines 3-5), both having upper terminal parts (140,146) thrust upward individually from the upper wall and lower terminal parts (158, 160) inserted into the container (112) when the cap (120) is fitted to the mouth (114) of the container (112); and a housing (120) adapted to accommodate therein a helical screw-driving mechanism (140) for rotating the helical

screw (134, col. 3, lines 32-40) in the liquid-lifting mechanism (134,126) and furnished with a delivery nozzle (124) for allowing a liquid lifted by the liquid-lifting mechanism (134,126) to flow out of the liquid dispenser (col. 3, lines 40-44), the helical screw-driving mechanism (150, col. 3 lines 32-40) is adapted to transmit a driving force of an electrical driving source and rotate the helical screw (134, col. 3, lines 31-35), and the housing is provided at a proper position thereof with a switch (150) for driving and stopping the electrical driving source (134, col. 3, lines 31-35). Giavasis lacks that the delivery nozzle of the housing is disposed in an upward direction. Jenney teaches the use of a liquid dispenser for a cap (36) which is fitted to a mouth of a container (9) as seen in Figure 1, the liquid dispenser having a delivery nozzle (50), where the delivery nozzle is disposed in an upward inclined direction (51) and the delivery nozzle is provided in a lower part with a liquid flow-inhibiting mechanism (col. II. 22-31).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Giavasis' delivery nozzle to have an upward passage direction including its internal restricted passage (54,55) as taught by Jenney in (col. 2, II. 14-31), in order to prevent the "after" discharge or slight spurt of the product from the nozzle which sometimes occurs after the pump is deactivated.

Referring to claim 3, wherein the housing (112) is comprised of a lower case having an empty storage part for accommodating the helical screw-driving mechanism (134,126) and a top face opening (114), and an upper case of a shape of a cover (120) for blocking the top face (114) opening of the lower case; the upper case is made of a material capable of deformation under an external force (switch 150) and restoration to

an original shape by itself from the deformation and is furnished with a thin-wall part so as to function as a switching part (156) capable of deformation under an external force and restoration to an original shape by itself from the deformation, and the switching part (156) is consequently adapted to turn on the electrical driving source (146,140) by application of an external pressure (on switch 150) for depressing the switching part (156) into the housing (120) and turn off the electrical driving source by releasing the external force applied to the switching part (156), thereby allowing the switching part to resume an original state.

Referring to claims 6 and 7, Giavasis further discloses a switching part (156) is provided with an auxiliary switching piece (150) shaped to cover at least the switching part (156, fig 2) of the housing (100, fig 2) and rendered shiftable between a state incapable of acting on the switching part and a state capable of depressing the switching part (col. 2, lines 40-43), and the electrical driving source (144) of the helical screw-driving mechanism (146) is switched by a shifting motion of the auxiliary switching piece (col. 3, lines 32-35).

Referring to claims 9, 10, and 12, Giavasis further discloses the helical screw-driving mechanism (150, col. 3 lines 32-40) comprises a motor (144, fig 2) having a rotational shaft (gear 146,fig 2) disposed in a lateral direction therein, which motor (144) is the electrical driving source, a driving force-transmitting mechanism for transmitting rotation (col. 3, lines 32-37) of the rotational shaft (146, fig 2) as the driving force for the helical screw (134, col. 3 line 39), and a laterally disposed battery (152, fig 2) for feeding

electricity to the motor (144) to complete the housing in a thin construction (battery disposed in handle for thin construction).

Citation of Related Prior Art

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Steele 2,837,246, Steczynski et al. 2,657,833 and Selig et al. 1,836,879 disclose other types of dispenser with an upward nozzle.

Response to Arguments

5. Applicant's arguments filed 1/19/2006 have been fully considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Art Unit: 3754

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar, can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN
March 20, 2006

 3/20/06
Frederick C. Nicolas
Primary Examiner
Art Unit 3754